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UNCLAS SECTION 01 OF 14 HANOI 000652

SIPDIS

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E.O. 12958: N/A

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SUBJECT: INPUT FOR 2004 TIP REPORT - VIETNAM

REFS: A. STATE 7869 B. 03 HANOI 3232 C. 03 HANOI 3288 D. 03

HANOI 2323 E. HANOI 336 F. HCMC 196

11. Mission Vietnam's response to the TIP questions in reftel A follows, following the requested checklist format.

12. OVERVIEW OF VIETNAM'S ACTIVITIES TO ELIMINATE TIP

1A. Characterization of trafficking in Vietnam:

Vietnam is a country of origin for trafficked, women, and children, but the highest percentage of victims are undereducated rural women between 18 and 40 years of age. Exact (or even rough) numbers are very hard to come by; however, government and NGO sources agree that the number is in the "thousands" per year. In press reports, Vietnamese police spokesmen have said that 50,000 Vietnamese women have been sold into prostitution in the past decade, but the source of this figure is unknown. Vietnam now has a dedicated crime statistics office, but it only opened in August 2003. That office tracks data only on arrests, prosecutions, and convictions of traffickers and therefore will not be a source of data on the total number of trafficking victims in Vietnam. Several NGOs are currently applying for funding to do a comprehensive survey of the trafficking problem in Vietnam.

Trafficking occurs within Vietnam's borders, as well as from Vietnam to other countries.

1B. Source and destination of trafficking victims:

Vietnamese trafficking victims come from almost all provinces and cities in Vietnam. The two main destinations for Vietnamese trafficking victims are China and Cambodia; in general, most northern and central trafficking victims are trafficked to China, while victims in the south are trafficked to Cambodia. The highest concentration of victims trafficked north came from Thanh Hoa province, south of Hanoi. The Cambodian border provinces of An Giang and Tay Ninh have a relatively high number of victims trafficked to Cambodia.

A small number of women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution or domestic servitude after their arrival in Taiwan. Since 1995, as many as 75,000 Vietnamese women have gone to Taiwan as brides. Vietnamese and Taiwan estimates of the number who have encountered difficulties, including but not limited to trafficking, range from five to ten percent. The number of actual trafficking victims - as differentiated from women who found themselves in unhappy marriages - is estimated by Taiwan and Vietnam authorities as between one and two hundred per year. (ref B).

Cambodia and China are the destinations for the vast majority of Vietnamese trafficking victims. However, the Ministry of Public Security (MPS) notes that Vietnamese women have also been trafficked to Macao, Hong Kong, and Malaysia for prostitution, although in much smaller numbers.

1C. Changes in direction or extent:

Vietnam has only recently begun collecting data on trafficking, and so it is not possible accurately to evaluate changes in the direction or extent of trafficking at this time. However, there is at present no indication of any change in direction or extent.

1D. Reports or surveys planned or underway:

In January 2003, UNICEF and MPS completed a survey of over 1,000 trafficking cases from 10 cities and provinces in northern Vietnam to determine the nature and extent of the problem. At the time of the 2003 TIP report, this survey was not yet publicly available. MPS will release a similar study, examining the problem in the southern provinces, in the first half of 2004. That survey is also not yet available. Other NGOs, the Asia Foundation (TAF) and UNODC in particular, have expressed interest in doing research on

trafficking in Vietnam and publishing their results.

**1E. Conditions for victims trafficked into Vietnam:**

Vietnam is not known to be a destination point for trafficked victims.

**1F. Targets and methods of traffickers:**

The primary population targeted by traffickers in Vietnam is unmarried women from poor and rural areas. More than 90 percent of trafficking victims have less than a high school education, and 92 percent reported their occupations as either unemployed or farmer. There has been no systematic analysis of who the traffickers are, but in Mission interviews with trafficking victims (and their relatives and friends) as well as numerous press reports, traffickers have been residents or former residents of the trafficking victims' provinces or communities. In some cases, the traffickers are traders or businesspeople, but in approximately half of the cases the traffickers were former trafficking victims themselves. The primary tactic of traffickers is to offer a so-called "easy" job as a trader, waitress, or domestic helper in either China or Cambodia. In many (at least 25 percent, according to the UNICEF study) cases of victims being trafficked to China, the victims are told they are going to China to marry a wealthy man who cannot find a suitable Chinese wife. Victims are generally moved across the Chinese and Cambodian borders without documents. In more than 80 percent of surveyed cases, victims crossed the border away from legal crossing gates. The MPS admits that Vietnam's long land borders with China and Cambodia are extremely porous. In the relatively small number of cases involving victims trafficked to more distant destinations such as Hong Kong, Taiwan, or Malaysia, MPS representatives stated that traffickers disguise victims as legitimate tourists or workers under a labor export program (ref c).

Vietnamese authorities, in cooperation with other third country law enforcement officials, have documented cases of trafficking in Vietnamese babies for international adoption, especially in the area of directed adoption, involving payments to parents in exchange for releasing their babies for adoption. In addition to this, small children and infants are sometimes kidnapped and sold to traffickers in China. In July, police in Hanoi arrested a woman suspected of kidnapping six children in the impoverished provinces of Thanh Hoa and Nghe An for sale to China.

**1G. Political will to combat TIP:**

There is political will at the highest levels of government to combat trafficking in persons. In September 2003, Deputy Prime Minister Pham Gia Khiem hosted an interagency meeting for all involved agencies, as well as the provinces most affected by trafficking (ref D). At that meeting, DPM Khiem reviewed the implementation of the Prime Minister's 1998 directive number 776/TTg concerning trafficking in persons. He directed MPS to lead an effort to choose a GVN agency to lead the interagency effort against trafficking. MPS created a separate office to focus on trafficking, and intends to upgrade that office to a department in 2004. The GVN is also committed to implementing its commitments under the Regional Ministerial Conference on People Smuggling, Trafficking in Persons, and Related Transnational Crime (aka the Bali Process), and is moving towards concluding a bilateral MOU on trafficking in persons with Cambodia.

The GVN does not have extensive resources, but it has recently focused more of its economic development efforts on rural and mountainous communities in part out of a desire to change the conditions of poverty that contribute to the persistence of trafficking. On the prosecution side, it has created a separate office in MPS to focus on trafficking. Local communities, provincial-level Women's Unions, and provincial Departments of Labor, Invalids and Social Affairs are charged with -- and have been generally active in -- facilitating the reentry and rehabilitation of trafficked victims.

**1H. Government complicity in trafficking:**

There were no cases in 2003 that would lead to the conclusion that governmental authorities, forces, or individual members of the government facilitate or condone trafficking in persons. However, the GVN has a persistent problem with corruption within its ranks, and that problem is particularly severe among street-level police and border agents. There were several cases in 2003 where officers in state-owned enterprises were found to have facilitated illegal labor migration through labor export, a form of trafficking in persons. The GVN prosecuted these cases. In May 2003 three officials from the Employment Service Center of the Administration Department of the General Staff Department of the Ministry of Defense (MOD) were found to have participated in a scheme to cheat Vietnamese workers into going to Malaysia, where they were exploited. One of

them was prosecuted by the local police in Thai Binh province, and two others by MOD's Criminal Investigation Division. In 2003, the press also reported that the Acting Chief of the Center for Development and Application of Technology and Science -- an NGO supported in part by the GVN -- was sentenced to nine years in prison for her involvement in a predatory labor export scheme.

There have undoubtedly been other cases of officials prosecuted for their involvement in trafficking, but the statistics on criminal prosecution of traffickers are not disaggregated by profession. Hard data is not available.

#### I. GVN's ability to address the problem:

The limitations on the GVN's ability to address the problem come primarily from the socioeconomic conditions in Vietnam, the usually low levels of ability of the police and armed forces, and the extensive land borders with China and Cambodia, the primary destination countries for Vietnamese victims of trafficking.

Vietnam is poor; CY 2003 per capita income was USD 480, and in rural and mountainous areas, the figure is much lower. Jobless women believe that China is a much richer place with significant numbers of prosperous businessmen who cannot get married in China because there is a lack of eligible women. Many in the south believe that there is money to be made in Cambodia working as the servant of a rich man or in the entertainment industry. Real economic opportunity in Vietnam is concentrated in urban areas, home to less than 20 percent of the population. For the majority of Vietnamese women, a rural, uneducated life at or below the poverty line is the best they can expect. The pool of potential trafficking victims is vast.

The socioeconomic conditions in Vietnam also affect the ability and integrity of the police and border guards. Vietnam does not have the resources to train or equip these personnel extensively, and their salaries are low - between twenty and forty dollars per month. These deficiencies contribute to the problems of corruption and incompetence in the Vietnamese police, especially at the provincial level.

The porous borders between Vietnam and the two main destination countries represent the third limitation on the GVN's ability to combat trafficking. Traffickers are able to evade the police easily. MPS officers admit that the long borders between Vietnam and China and between Vietnam and Cambodia offer traffickers many options for crossing the border illegally with trafficking victims (ref c). Vietnamese border authorities in the south have admitted that in remote areas, they rely on locals informing the police in the event a stranger passes through the area heading for the border. In practice, this does not represent an effective border control strategy. However, considering the limited resources of the Border Army and the thousands of kilometers of easily crossable borders, it is difficult to implement a truly effective strategy.

#### J. Government monitoring of anti-TIP activities:

The GVN's monitoring effort exists but is not systematic. Deputy Prime Minister Khiem's meeting in September 2003 was designed to review performance in the fight against trafficking among all interested agencies. The GVN shared the results of that meeting with the public and the international community through press reports and readout briefings with NGOs. The GVN also held a meeting in February 2004 with all interested Embassies and international organizations regarding Vietnam's actions under the Bali Process, with formal assessments from the Ministry of Labor, Invalids, and Social Affairs (MOLISA), the Ministry of Foreign Affairs (MFA), MPS, and the Border Army. In addition to these seminar-style assessments, MPS has been working with UNICEF to produce two comprehensive reviews of the actual situation of trafficking in persons to China and Cambodia and examining prevention and investigation efforts. According to representatives of MPS, the second of those reports is scheduled to be released in "early 2004," probably in March.

The GVN does not have a formal mechanism for sharing this information. It is, however, sometimes available upon request.

#### K. Legalization/decriminalization of prostitution:

Prostitution is subject to penalties in Vietnam. Brothel owners, procurers, prostitutes, and customers are all subject to arrest. Brothel owners and procurers face jail time under the Penal Code, and prostitutes and customers are usually given "administrative punishment," imposed by the police without the involvement of prosecutors or courts. Prostitutes are routinely sent to rehabilitation centers, while customers face fines. Customers who are found with prostitutes under the age of 18 are subject to prosecution

and jail time.

#### **1L. Purchase of child brides in Vietnam:**

The GVN admits that there may be cases of child brides being bought and sold; however, no cases have been identified and no figures are available. It is illegal to marry before the age of 18. Despite this fact, girls younger than 18 do get married (or at least, set up housekeeping in the absence of a legal wedding) regularly, especially in rural areas. The issue of buying and selling is a complicated one, since cultural aspects of a traditional wedding in Vietnam (such as the groom giving gifts to the bride's family) can resemble a transaction in extreme cases. This is especially true when foreign men come to Vietnam to marry Vietnamese women. In these cases, grooms frequently provide a significant cash gift to the parents of the bride with an expectation of more gifts in the future (ref B).

Vietnamese men are not known to travel abroad to purchase child brides.

#### **13. PREVENTION:**

##### **1A. GVN acknowledgement of the problem:**

The GVN acknowledges the problem of trafficking publicly and privately at all levels of government and with domestic and international audiences. Two representative statements follow: "In recent years, the situation of trafficking in women and children in Vietnam has become complicated and serious. . . in the past ten years, thousands of women and children were cheated to be sold abroad, forced to be wives, to be exploited for labor." (Vice-Director of Criminal Police Col. Nguyen Manh Te, at an official briefing on "Policies, Legislation and Measures of the Government of Vietnam Against People Smuggling, Trafficking in Persons and Related Transnational Crime, 26 February 2004.) "Thousands of Vietnamese women and children have been victims of both organized and spontaneous people trafficking. . . Although Vietnam has done its best, as a result of numerous objective and subjective reasons, trafficking in women and children remains complicated and serious, causing deep concerns for the community, threatening the life of thousands of women, children, and their families, nurturing potential bad consequences for national security and social safety." (MFA Consular Director General Bui Dinh Dinh, same venue.)

##### **1B. Agencies involved in anti-TIP efforts:**

The lead agency falls under the MPS, which has an office dedicated to trafficking enforcement as well as the responsibility for coordinating interagency efforts. The other agencies involved are the MFA, MOLISA, the Border Army, and the Women's Union.

##### **1C. Government-run anti-TIP information or education campaigns:**

The GVN has not mounted separate, specific anti-TIP campaigns, but the issue of trafficking has been raised in combination with other information and education programs. For example, Vietnam Television occasionally addresses the issue in a popular television program about home economy, featuring returnees discussing their trafficking experiences and advising others on how to avoid being trafficked.

Trafficking in persons is normally included with other "anti-social evil programs" run by MOLISA's Department of Social Evils Prevention. (Note: The GVN defines "social evils" as drug abuse, HIV/AIDS, prostitution, and trafficking in persons. End note.) For example, the GVN's official anti-prostitution program has been underway since 2001. This program includes trafficking information and education campaigns. This program, according to DSEP, targets victims, high-risk groups, and the entire society. In addition, DSEP confirmed that MPS is now working on a national anti-trafficking plan of action for the 2005-2010 period that will include an information and education component.

##### **1D. GVN support of other programs to prevent trafficking:**

The GVN supports several domestically funded and foreign funded anti-trafficking programs.

On February 12 2004, the GVN approved its 2004 - 2010 National Program of Action on Protection for Children in Special Circumstances. The program has four objectives targeted at:

- providing for homeless children;
- ending the worst forms of child labor;
- preventing women and children from being trafficked; and
- capacity building and advocacy.

In addition to this program, the GVN also supports various ongoing trafficking projects throughout Vietnam, including international programs, such as following ILO projects:

- ILO - Japan Asian Regional Program for Extension of Employment Opportunities for Women, Capacity Building, Credit Schemes, and Income Generation;
- Project on Promoting More and Better Jobs for Young Women in Vietnam (2001 - 2004);
- National Program for the Prevention and Elimination of Child Labor in Vietnam; and
- The Mekong Sub-regional Project to Combat Trafficking in Women and Children.

Other NGOs and international organizations such as IOM, Action Aid, Save the Children UK, UNODC, and UNICEF are assisting in combating trafficking. These projects all contain a GVN component, mostly in the form of in-kind contributions (ref D).

#### **1E. GVN ability to support prevention programs:**

Though prevention in the form of socioeconomic development for the high-poverty areas where many trafficking victims originate is the GVN's top priority for addressing the issue of trafficking in persons, the magnitude of the task of improving the standard of living for all those living in rural poverty exceeds the GVN's resources. The GVN is dependent on overseas assistance to meet many of its developmental goals, which themselves are insufficient to eliminate the potential pool of victims.

#### **1F. Relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue:**

The GVN's ability to operate in an interagency context is limited. Communication technology is antiquated and there is little tradition of interagency cooperation, although that is improving since the Deputy Prime Minister's decision to place MPS in charge of interagency coordination on the TIP issue. The GVN works well with relevant organizations on the TIP issue, especially those connected to the UN such as UNICEF and UNODC. MPS has played an active role in several UNICEF and UNODC trafficking projects recently, going so far as to assign one senior officer full time in the UNODC office as the national project coordinator. This greatly improves UNODC's ability to work with MPS.

On the trafficking issue, the civil society representation comes from the Women's Union, a mass organization under the Vietnam Fatherland Front for women's issues in Vietnam. The Women's Union has branches and offices throughout the country down to the commune level. Relations between the Women's Union and other agencies on the subject of trafficking are excellent.

#### **1G. GVN border control adequacy and monitoring of emigration/immigration patterns for evidence of TIP:**

Representatives from the General Criminal Division of MPS have admitted that, along Vietnam's 5,000 km of land borders, there are "countless forest paths where people cross the border unofficially" (ref C). Sophisticated monitoring of immigration and emigration patterns for evidence of trafficking would exceed the GVN's technical and human resource abilities. Vietnam has only just begun collecting statistics on trafficking; building and exploiting an effective database are yet to come.

#### **1H. Existence of trafficking and corruption task forces:**

MPS has overall coordination authority over a group of ministries charged with combating trafficking in persons. The GVN does not have a broad-based TIP task force, except for the TIP office in MPS that is focused solely on enforcement. There is no interagency task force on corruption in Vietnam, although there is a State Inspectorate as well as a Ministry of Internal Affairs and an Internal Affairs Commission of the Communist Party of Vietnam (CPV), all of which have investigatory and supervisory powers.

#### **1I. GVN participation in international anti-TIP efforts:**

The GVN's most significant international effort to combat trafficking in persons is through its participation in the Bali Process connected with the Bali Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime held in February 2002 and April 2003. In addition to the commitments from the Bali Process, Vietnam intends to participate in the Asia Regional Cooperation to Prevent People Trafficking Project funded by AusAid when that project expands beyond Thailand, Burma, Laos, and Cambodia. According to the ASEAN Secretariat, the purpose of that project is to strengthen regional

cooperation and legal policy frameworks through identified ASEAN Secretariat plus China (Yunnan Province) national points of contact, and build national and regional capacity to prevent trafficking in women and children.

Vietnam also took part in the Asian Ministerial Consultation on Migration Labor, held in Sri Lanka in April 2003, and several other working-level conferences and seminars on migrant labor and trafficking.

#### J. GVN plan of action for TIP:

There is not yet a formal national plan of action to address trafficking in persons in Vietnam. However, under the guidance of the Office of the Prime Minister and MPS, the agencies involved in the fight against trafficking all have a common set of goals and strategies that together create a kind of action plan. It is comprehensive and covers prevention, prosecution, and protection, as well as socioeconomic development, legal reform and capacity building, and international cooperation. NGOs were not formally consulted in the development of these strategies, but the GVN relies heavily on assistance from the ILO, UNODC, and UNICEF to implement the plan. At the moment, trafficking in persons is addressed in the 2000 - 2005 National Anti-criminal Plan of Action. According to MPS, a separate national plan of action to address trafficking in persons is in the works, based on existing goals and strategies.

#### K. Entity or person responsible for developing anti-trafficking programs within the government:

Based on the instructions of DPM Khiem during the September 2003 trafficking conference, MPS is the point of contact for anti-trafficking activities among the Ministry of Health, MOLISA, MFA, Ministry of Justice (MOJ), Border Army, the Women's Union and other mass organizations.

MPS is responsible for reporting to the Office of the Prime Minister on the issue of trafficking in women and children after collecting and analyzing all information from other concerned ministries and agencies. In practice, the Criminal Police Department within the General Department of People's Police (part of MPS) handles issues pertaining to trafficking in persons.

#### 4. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

##### A. Laws specifically prohibiting trafficking in persons:

Most traffickers in Vietnam are prosecuted under the current Penal Code Articles 119 and 120, according to the Law Department of the Office of the National Assembly. Article 119 concerns trafficking in women, and provides for penalties ranging from 2 to 20 years in prison. Article 120 concerns trafficking in children, and penalties range from 3 years to life in prison. Trafficking in women and children for all purposes, not just prostitution, is covered under these articles. Trafficking for the purposes of labor exploitation is covered in Vietnam under Penal Code 275 (titled "organizing and/or coercing other persons to flee abroad or to stay abroad illegally"). GVN authorities, including the MOJ, recognize that although all forms of trafficking can be prosecuted one way or another under the Vietnamese Penal Code, existing legislation in Vietnam does not comprehensively cover trafficking in persons. The GVN is engaged in a legal reform project now that is designed to correct the flaws in the current code concerning trafficking in persons and provide the legislative basis for Vietnam to accede to international protocols on trafficking in persons. According to the MPS Criminal Police Department, the GVN is currently "developing and gradually perfecting the legal system concerning the prevention, the prosecution of crimes and the violation of laws on trafficking in women and children." Vietnamese law does not address the issue of trafficking in men for sexual purposes, and there are no indications that this is a problem in Vietnam. If it did happen, however, it would be possible to prosecute the traffickers under laws criminalizing the procurement of prostitutes, according to MOJ.

2003 saw substantial changes in Vietnamese law pertaining to labor exports, accompanied by implementing instruments to curb abuses (ref E). Effective as of January 2003, amendments to the Vietnamese Labor Code added a section on "Vietnamese working abroad." Included in this section's articles is a stipulation that only "Vietnamese citizens who are 18 years of age in full or over, who have the ability to work, who are voluntary and satisfy all other standards and conditions in accordance with Vietnamese laws and the laws and requirements of the foreign party may work in a foreign country." The amendments also include the requirement that enterprises have a permit to send workers abroad, thus ensuring some measure of government control over the system. The changes more clearly detail the rights and obligations

of both the workers and the enterprises, including the enterprise's obligation "to manage and protect the interests of laborers during the period of working abroad under their contracts in accordance with the law of Vietnam and the law of the foreign country;" "to pay compensation for damage to the laborer caused by the breach of the contract by the enterprise;" and "to complain to the authorized State body against breaches of the laws in the field of labor export."

In July 2003, the GVN promulgated an updated Decree to implement these provisions. This regulation requires that companies "monitor, manage, and protect the legal rights of labor during their time of working abroad" and "have cadres for the management of the labor depending upon the foreign market." The enterprises are thus required regularly to inspect overseas workplaces both before and after signing labor contracts. The information from the pre-inspection must be included in the registration of a labor export contract submitted to MOLISA. According to one labor export company, MOLISA carries out both scheduled and surprise inspections of labor export companies.

The new Decree highlights the conditions for granting and revoking licenses for labor export. Presently, Vietnam has 154 licensed labor export companies. 150 of these are state enterprises "owned" by a wide range of ministries and provinces, while the remaining four are private companies operating under a pilot program. According to MOLISA's Department of Overseas Labor, the GVN will reissue licenses to labor export enterprises one year after the implementation of this new Decree (i.e. July 2004). MOLISA will use this opportunity to reconsider all licenses, not granting new ones to those that do not meet the necessary conditions. MOLISA has already used its power to revoke the licenses of "irresponsible" labor export companies ten times between 2001 and 2003. It also temporarily suspended eight licenses. For more serious abuses of worker's rights, MOLISA coordinates with MPS to prosecute violators under criminal statutes.

#### **1B. Penalties for traffickers:**

The revised Penal Code of Vietnam states in Article 119 that those who commit acts of "trading" women for the purpose of prostitution shall be sentenced to between five and twenty years of imprisonment. Article 120 provides sentences of between ten and twenty years of imprisonment for those who commit the crime of trading in, fraudulently exchanging or appropriating children for use for prostitution purposes. Traffickers of people for labor exploitation are prosecuted in Vietnam under Penal Code section 275 and face penalties of between 2 and 20 years in prison depending on the severity of the crime.

#### **1C. Penalties for rape or forcible sexual assault:**

Penalties for rape or forcible sexual assault range from six months in prison to capital punishment. Capital punishment is reserved for cases in which: the victim is killed, seriously disabled or infected with HIV/AIDS; the perpetrator is a participant in a gang rape; or the perpetrator has raped more than one person. With the exception of the potential of the death penalty or life in prison in the circumstances mentioned above, the penalties for rape/sexual assault and for trafficking in persons are similar.

#### **1D. Prosecution statistics:**

The GVN has only just begun providing statistics on arrests, prosecutions, and convictions of traffickers. The Department of Crime Statistics was established in the Supreme People's Procuracy in August 2003. It provided its first set of statistics to the USG in late February 2004. The following is the number of cases against traffickers in women and children (Articles 119 and 120 of the Penal Code) in 2003. This data does not include cases involving those guilty of trafficking in men for labor exploitation.

Indicted:	296 suspects in 173 cases;
Prosecuted:	224 suspects in 127 cases;
Convicted:	204 suspects in 115 cases.

According to the Department of Crime Statistics, the data on actual sentences is still being collected and processed; the Department hopes to provide this data later in 2004.

#### **1E. Information on traffickers and beneficiaries of trafficking:**

Although the GVN refers occasionally to the involvement of organized crime in trafficking cases, there is no evidence to date to indicate that international organized criminal syndicates are involved in trafficking in Vietnam. Most of the traffickers caught and prosecuted in Vietnam are small-

scale traffickers operating close to their home villages as individuals or in small groups. In many cases, the traffickers are either former trafficking victims themselves, or relatives of the trafficking victims. In a review of the cases of 428 people arrested for trafficking in the north of Vietnam from 1999-2002, the MPS General Criminal Department determined that 80 percent of the perpetrators were unemployed, farmers, or itinerant vendors. There have been several cases where "matchmaking" agencies in Ho Chi Minh City have been accused of defrauding women in the process of arranging marriages between men from Taiwan or South Korea and Vietnamese women, but there is so far no indication that trafficking is involved in these cases.

The proceeds of trafficking do not appear to concentrate in any particular place or gravitate towards any particular group in Vietnam, but instead are shared among the members of small free-lance ad-hoc groups of traffickers, according to UNODC.

#### **1F. GVN investigation of trafficking cases:**

The GVN actively investigates trafficking cases, prosecutes, and convicts traffickers. In general, the GVN does not use active investigative techniques in any criminal investigations, including narcotics cases. According to the DEA, the Vietnamese police do not have the authority or the capability to use wiretaps effectively in criminal cases. Legally, they can conduct undercover operations, but MPS states that it lacks implementing regulations spelling out exactly what is legal and illegal in undercover operations, and so does not yet conduct them. Vietnamese law does not permit granting immunity from prosecution in exchange for information, and American-style plea bargains do not happen. In criminal cases, the judge does have the discretion to mitigate sentencing if defendants have been cooperative throughout the investigation and trial process, but a pre-arranged bargain is not legal.

A project aimed at improving and refining the legislation covering tools available to investigate and prosecute cases is currently underway under the auspices of UNODC. MOJ is the implementing agency for this project.

#### **1G. Training for GVN officials in TIP issues:**

At the moment the GVN does not provide special training in recognizing, investigating, or prosecuting instances of trafficking. However, MPS is cooperating with UNODC on a U.S.-funded project that is designed to train elements of the Border Army in recognizing and investigating trafficking at high-risk border crossing points in Quang Ninh and Tay Ninh provinces.

#### **1H. International cooperation in TIP enforcement:**

The GVN cooperates with other governments in the investigation and prosecution of trafficking cases, but not often. According to MPS, this has happened "less than ten times." However, one case in April 2003 received a great deal of press attention when Vietnam-Cambodia cooperation resulted in the elimination of "several" trafficking rings and long prison sentences handed down to some leaders. MPS officials also cited two instances in which China and Vietnam jointly (and successfully) investigated trafficking cases, both in 2001. MFA officials have noted that, with the assistance of UNICEF, Chinese and Vietnamese border authorities meet "regularly" to exchange experience and information, and to "work out plans to coordinate actions to prevent cross-border smuggling of women and children."

#### **1I. GVN extradition of traffickers:**

Vietnam can and does extradite foreigners who are charged with trafficking in other countries, even in the absence of extradition treaties, but only on a case-by-case basis. According to Interpol-Vietnam, statistics for extradition cases in 2003 and other years are unavailable, but the number of trafficking-related extraditions in 2003 was "less than ten."

MOJ officials noted, however, that Vietnam does not extradite its own citizens anywhere for any purpose, in accordance with the 1998 Citizenship Law.

#### **1J. Evidence of GVN tolerance of or involvement in TIP:**

Vietnam suffers from endemic corruption, particularly at the working levels of law enforcement. While cases of trafficking-related corruption appear rarely if at all in the press, NGOs and international organizations believe that they exist. In addition, newspapers have reported several high-profile cases of labor export-related trafficking in recent months, and the arrests and convictions of the state-owned enterprise employees involved.

According to an article in the "Great Solidarity" newspaper (published by the Vietnam Fatherland Front) in February 2004, one trafficking victim was a cousin of the police commander for the commune involved. The newspaper quoted a Women's Union official who noted that in cases where a family relationship existed between the authorities and the traffickers, the law enforcement system broke down. The article stated that, at the commune level, where most people have at least some distant family relationship with each other, the fact that many traffickers are people who return to their hometowns from overseas makes law enforcement is "more difficult". MPS representatives declined to comment on general conditions in rural areas, but noted that the professionalism and capabilities of law enforcement in rural areas was usually lower than at the central level.

Post has no information indicating the existence of trafficking-related corruption at the central level of the GVN.

#### **1K. Steps to end official participation in TIP:**

MPS officials stated that a combination of internal administrative punishments and legal prosecution would be used to combat any official corruption or participation in trafficking. To date, the GVN has not prosecuted any cases of corruption related to trafficking, but MPS officials noted that there may have been cases where traffickers also had some official capacity, especially at the local level. Those cases would be contained in the aggregate indictment, prosecution, and arrest statistics under Articles 119 and 120. The GVN has not analyzed that data to determine if any of the individuals involved were public officials.

#### **1L. GVN ratification of international instruments:**

ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor: Signed and ratified. Date of ratification: December 19, 2000.

ILO Conventions 29 and 105 on forced or compulsory labor: Not yet signed.

The Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography: Signed and ratified. Date of ratification: December 20, 2001.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime: Not yet signed, but according to UNODC and MOJ, Vietnam hopes to ratify the UN Convention against Transnational Organized Crime in 2004 and sign the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children simultaneously.

#### **15. PROTECTION AND ASSISTANCE TO VICTIMS:**

##### **1A. GVN assistance to victims:**

In accordance with the Prime Minister's directive number 776/TTg, MOLISA has the responsibility for caring for victims of trafficking. In practice, MOLISA interprets this as the responsibility to "coordinate with relevant agencies in providing guidance and directions to localities to conduct job training and generation activities and to provide medical treatment to victims of trafficking." The effect of this interpretation is to shift primary responsibility (financial and operational) for actually caring for victims of trafficking back to the provincial and local level. At the local level, it is usually the Women's Union representatives who care for returnees. In particularly hard-hit communes in provinces such as An Giang, Lang Son, and Quang Ninh, local People's Committees and Women's Unions work together to provide services and care to returnees. The level of this care, in particular medical care, depends on the political will and the financial resources of the commune. Medical care is generally rudimentary in the communities from which trafficking victims originate, and so many victims likely do not receive adequate care. There are no statistics available on HIV/AIDS rates of infection among returned trafficking victims.

##### **1B. GVN funding of NGOs providing services to victims:**

Local governments often work with NGOs to provide support to returned trafficking victims in the form of vocational training, farmland, or capital for microcredit loans. In addition, nearly all international organization and NGO anti-trafficking programs have a GVN component, usually in the form of an in-kind contribution such as office space, personnel, or services.

#### **1C. Treatment of victims:**

Trafficking victims in Vietnam are not detained, arrested, or placed in protective custody against their will. The GVN routinely sends prostitutes to "rehabilitation centers" where they receive medical care and vocational training during a period of incarceration, but trafficking victims are not sent to these centers unless they are caught engaging in prostitution after their return to Vietnam. MOLISA officials noted that trafficking victims have the opportunity to enter a prostitute rehabilitation center voluntarily to take advantage of the medical care and vocational training, but that this is very rare.

#### **1D. Rights of victims and treatment of returnees continued:**

Post has no information indicating that returned trafficking victims in Vietnam are treated as criminals. In all official meetings, in conferences, in seminars, and in the press, returnees are referred to as "victims." The Director of MOJ's Legal Aid Agency has advocated changing the law explicitly to acknowledge the victim status of returnees, but so far this has not occurred.

#### **1E. Victim participation in investigations or suits against traffickers:**

According to the MOJ, trafficking victims in Vietnam are encouraged to assist in the investigation and prosecution process. They are also encouraged to file suit against the traffickers. Article 31 of a new Criminal Procedures Code (see section F below) explicitly states the right of any Vietnamese citizen to make complaints or statements during criminal proceedings.

Depending on the court ruling, if a ruling is against an employer (for example, the employer is sentenced to imprisonment), then compensation will be awarded to the victim by the court, including back pay. Article 29 of the new Criminal Procedures Code establishes the right to compensation and the restoration of reputation and other benefits for the victims of injustice, including trafficking.

Victims may leave Vietnam in accordance with emigration regulations.

#### **1F. Protection of victims and witnesses:**

On November 26, 2003, the National Assembly passed the Revised Criminal Procedures Code, which will take effect on July 1, 2004. Point 3, Article 55 under the Code states: "the witness has the right to request the government to protect his life, health, reputation, dignity, assets and other legitimate rights and interests when taking part in the prosecutorial process."

According to Article 7 of the Code, "citizens have the rights to have their life, health, reputation, dignity, and assets protected by law. Any acts ruining life, health, reputation, dignity, or assets will be dealt with by law. If the life, health, reputation, dignity, or assets of the victim, witness, or anyone else taking part in the prosecutorial process, or their loved ones, are threatened, competent authorities shall apply necessary measures for protection as stipulated by the law." According to the National Assembly's Law Department, in practice security and police authorities have provided protection for victims and witnesses, in most cases at their request. Also according to the Law Department, in some exceptional cases, the GVN automatically offers to provide protection, depending on the seriousness and the importance of the case.

#### **1G. GVN specialized training for officials dealing with trafficking, especially related to protection of victims:**

The GVN does not in general provide specialized training but has sent labor attaches to six of its embassies overseas located in countries that have the largest number of Vietnamese workers (ref E). These attaches are responsible for working with the local authorities, the employers of Vietnamese workers, and other Embassy staff members to monitor labor conditions and intervene on behalf of Vietnamese workers if necessary. These officers have access to a fund that can be used to help Vietnamese workers who find themselves in a difficult situation (such as an abusive workplace, or a bankrupt employer) to go home. This provides an important protection for workers against being trafficked for labor. In addition, MFA officers assigned to Taiwan receive special briefings on working with Vietnamese women who are married to men from Taiwan, and are instructed to "work with Taiwan authorities to give a helping hand to the victims, to detect and take timely action against traffickers in women under the cloak of marriage brokers," according to MFA Consular Director General Dinh.

**1H. GVN assistance to repatriated nationals who are victims of trafficking:**

In accordance with the Prime Minister's directive number 776/TTg, MOLISA has the responsibility for caring for victims of trafficking. In practice, MOLISA interprets this as the responsibility to "coordinate with relevant agencies in providing guidance and directions to localities to conduct job training and generation activities and to provide medical treatment to victims of trafficking." The effect of this interpretation is to shift primary responsibility (financial and operational) for actually caring for victims of trafficking back to the provincial and local level. At the local level, it is usually the Women's Union representatives that care for returnees. In particularly hard-hit communes in provinces such as An Giang, Lang Son, and Quang Ninh, local People's Committees and Women's Unions work together to provide services and care to returnees. The level of this care, in particular medical care, depends on the financial resources of the commune. Medical care is generally rudimentary in the communities from which trafficking victims originate, and so many victims do not get care.

**1I. NGOs working on trafficking in Vietnam and cooperation with the GVN:**

Major ongoing NGO projects in Vietnam include:

-- Oxfam Quebec, Save the Children UK, and Save the Children Sweden: In the northeast (Bac Giang, Quang Ninh, and Lang Son provinces), this project is aimed at awareness-raising through the distribution of leaflets and local economic development through the provision of training and support for women starting their own businesses. Counterpart agency: the Women's Union.

-- the ILO: The ILO's project is part of a subregional project including all of the Mekong subregion countries. It is located in Quang Ninh and Thanh Hoa provinces as well as in Ho Chi Minh City. ILO focuses on: advocacy and awareness-raising; capacity building in MOLISA, Border Guards, MPS, and the Women's Union; and direct assistance. Counterpart agencies are MOLISA, MPS, and the Women's Union.

-- IOM: The IOM is focused on protection of returnees. Also a regional Mekong project, IOM has opened a shelter for returned trafficked children in Ho Chi Minh City and provides assistance to trafficking victims who want to return to Vietnam. IOM hopes to expand the shelter project to border provinces such as Tay Ninh (ref F). Counterpart agencies: MOLISA and the Women's Union.

-- UNICEF has a Vietnam component to a subregional antitrafficking project, which focuses on protection of victims and institutional capacity building, as well as legal reform. UNICEF's project is unique in that it incorporates children themselves in project planning. Counterparts: MPS and MOLISA.

-- A new UNODC project, with funding by the USG, focuses on capacity building among law enforcement agencies, legal reform leading to accession to UN protocols on trafficking, and international law-enforcement cooperation. Counterpart: MPS.

-- The Asia Foundation, also funded by the USG, focuses on prevention of trafficking in Quang Ninh and An Giang provinces. TAF works with Vietnamese NGOs and the Women's Union to improve conditions and opportunities for women in the provinces. Activities include training of women political candidates and business managers, and provision of microcredit loans for women starting small businesses. Counterpart: the Women's Union.

-- the UN Interagency Project in Bangkok administers a USD 3 million (total project cost) project against trafficking in women and children in the Mekong Sub-region, including Vietnam, which attempts to collect data and to improve internal coordination among GVN agencies. The UNIAP is currently on hiatus in Vietnam pending the GVN's approval of its "second phase" projects. Counterpart: MOLISA.

These organizations altogether are spending less than 5 million dollars annually in Vietnam. Most projects are small-scale and focused mainly on raising awareness of trafficking in at-risk communities, with some additional efforts to address "root causes" and protect returning victims of trafficking. The major exception is the UNODC project. In all cases, the projects have a GVN partner organization and draw heavily on donated staff from the Women's Union, MOLISA, and local Departments of Labor, Invalids, and Social Affairs, and in some cases MPS. The GVN's contribution to these projects is nearly always in-kind, in the form of office space, personnel, equipment and

supplies if available.

POC AND TIME SPENT ON REPORT:

POC: Benjamin Moeling, Political Officer  
(moelingbw@state.gov) tel: 84-4-772-1500x2216 fax:84-4-772-  
[1](#)2614.

Time spent on report:

FSN-9, 2 employees, 20 hours

FSN-8, 8 hours

FO-03, 36 hours

FO-01, 2 hours

FE-MC, 1 hour

PORTER